

Appln No. 10/757,112
Amdt date January 6, 2006
Reply to Office action of October 6, 2005

REMARKS/ARGUMENTS

This amendment is submitted in response to the Office action dated October 6, 2005. Of the original claims, claim 2 has been canceled and claims 1, 9 and 11 have been amended. Therefore, claims 1 and 3-12, as amended, remain in the application for examination.

Amendments to the Specification

Applicants have amended the specification to clarify the description of the structure disclosed in the drawings as originally submitted. Specifically, the structure as shown in Figure 3 has been more particularly described. No new matter has been added.

Amendments to the Drawings

Applicants have amended Figure 3 to include three new reference numerals. No new matter has been added.

Objections to the Drawings

On Page 2 of the Office action, the Examiner has objected to the drawings under 37 C.F.R. 1.83(a). Applicants have amended Figures 2 and 3 to denote the ring of insulating material with the reference numeral 41, thus complying with the requirement that the drawings must show every feature of the claims. It is therefore respectfully submitted that the objection to the drawings has been overcome and should be withdrawn.

On Pages 2-3 of the Office action, the Examiner has objected to the drawings under 37 C.F.R. 1.84(p)(5) because they do not include the reference numeral 41, found in the specification. Applicants have amended Figures 2 and 3 to include reference numeral 41 and comply with the requirement. It is therefore respectfully requested that the objection to the drawings be withdrawn.

On Page 3 of the Office action, the Examiner has objected to the drawings as failing to comply with 37 C.F.R. 1.84(p)(4) because reference numeral 38' has been used to designate both central spring arm and finger. Applicants respectfully point out that the central spring arm is denoted throughout the drawings by the reference numeral 38" and the finger is denoted

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throughout the drawings by the reference numeral 38'. It is therefore respectfully submitted that drawings are correct in this respect and the objection should be withdrawn.

Rejections under 35 U.S.C. § 112

On Page 4 of the Office action, claims 9 and 11 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claim 9 is rejected for containing the trademark MYLAR. Claim 9 has been amended to recite the particular material used to form the removable insulator and to acknowledge that MYLAR is a trademark. Applicants therefore respectfully submit that the rejection has been overcome and should be withdrawn.

Claim 11 is rejected for improper antecedent basis. Claim 11 has been amended to give proper antecedent basis to the term "circuit board." Applicants therefore respectfully request that the rejection be withdrawn.

Rejections under 35 U.S.C. § 102

On Page 5-6 of the Office action, claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,545,069 to Glynn et al. In response to the Office action, Applicants have clarified the language of the claims to recite "the upwardly extending portion comprising a wall and a closed upper end," and to more explicitly recite that the upwardly extending portion is capable of transmitting light "through at least one of the wall and the closed upper end." Applicants respectfully submit that amended claim 1 is allowable over Glynn et al.

Claim 1, as amended, recites "a finger-grasping portion extending from the housing;" "the upwardly extending portion comprising a wall and a closed upper end, the consumable portion being supported on an outer surface of the upwardly extending portion;" and "wherein the illuminating element is disposed within the upwardly extending portion of the housing, and wherein the upwardly extending portion is capable of transmitting at least a portion of the light from the illuminating element to the consumable portion through at least one of the wall and the closed upper end." Glynn et al. teaches "The light permeating portion is a continuous opening from the light source 11 end in the base 5 to the protrusion and of the illuminable edible 9." Col.

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4, Lines 3-5. Figure 3 of Glynn et al. shows the light source (11) located within the base (5), with the consumable portion (9) attached by insertion into the holder (7) at the top of the base (5). The light source (11) is therefore not "disposed within the upwardly extending portion of the housing" with "the consumable portion being supported on an outer surface of the upwardly extending portion" as required by claim 1. Moreover, Glynn et al. does not teach or suggest that "the upwardly extending portion is capable of transmitting at least a portion of the light from the illuminating element to the consumable portion through at least one of the wall and the closed upper end of the upwardly extending portion of the housing" as required by claim 1.

As a result, the cited reference does not teach the invention of claim 1, and therefore does not anticipate it. Furthermore, nothing in the Glynn reference would suggest the recited structure of amended claim 1 to a worker skilled in the art at the time the invention was made. In short, the independent claim 1 defines a novel and non-obvious invention over Glynn et al. Dependent claims 3-12 are dependent from claim 1 and therefore include all the limitations of claim 1 and additional limitations therein. Accordingly, these claims are also allowable over the cited references, as being dependent from allowable independent claim 1, and for the additional limitations they include therein.

Rejections under 35 U.S.C. § 103

On Pages 6-7 of the Office action, claims 1 and 2 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0126507 to Gordon (now U.S. Patent No. 6,659,619, referenced herein), incorrectly identified by the Examiner in the Office action as having issued to Coleman et al., in view of U.S. Patent No. 5,536,054 to Liaw.

Claim 1, as amended, recites "the upwardly extending portion comprising a wall and a closed upper end, the consumable portion being supported on an outer surface of the upwardly extending portion" and "wherein the illuminating element is disposed within the upwardly extending portion of the housing, and wherein the upwardly extending portion is capable of transmitting at least a portion of the light from the illuminating element to the consumable portion through at least one of the wall and the closed upper end." Gordon discloses: "Handle end (36) of the shaft (18) is secured in handle (20)." Col. 3, Lines 14-15. Gordon continues: "At

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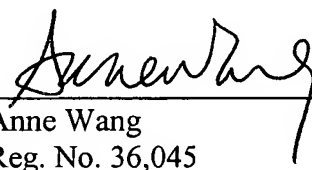
the opposite, candy end (34) of shaft (18), the shaft terminates in a retainer (16)." Col. 3, Lines 20-21. The light (28) of Gordon is shown in Figure 2 to be disposed within the handle (20). The light is therefore not "disposed within the upwardly extending portion" with "the consumable portion being supported on an outer surface of the upwardly extending portion" as required by claim 1. In fact, Applicants maintain that the disclosure in Gordon that the light (28) be secured in the handle (20) rather than in the shaft (18) teaching away from the structure of amended claim 1. Liaw likewise does not teach or suggest the limitation as it discloses a mechanical lollipop holder without any light source.

As a result, amended independent claim 1 defines a novel and non-obvious invention over Gordon, in view of Liaw. Dependent claims 3-12 are dependent from claim 1 and therefore include all the limitations of claim 1 and additional limitations therein. Accordingly, these claims are also allowable over the cited references, as being dependent from allowable independent claim 1, and for the additional limitations they include therein.

Conclusion

Based on the arguments asserted above, it is submitted that the present application is in condition for allowance. Applicants hereby respectfully request reconsideration and allowance of the claims 1 and 3-12.

Respectfully submitted,
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Amendments to the Drawings:

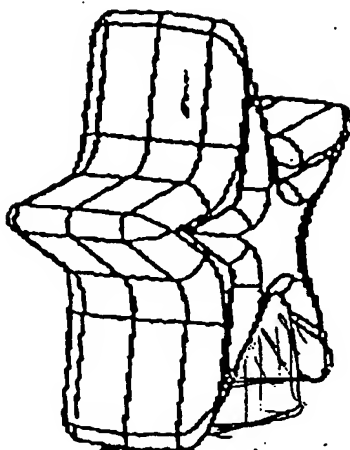
The attached sheets of drawings include changes to Figs. 2 and 3. These sheets, which include Figs. 2 and 3, replace the original sheets including Figs. 2 and 3.

Attachment: Replacement Sheets
 Annotated Sheets Showing Changes

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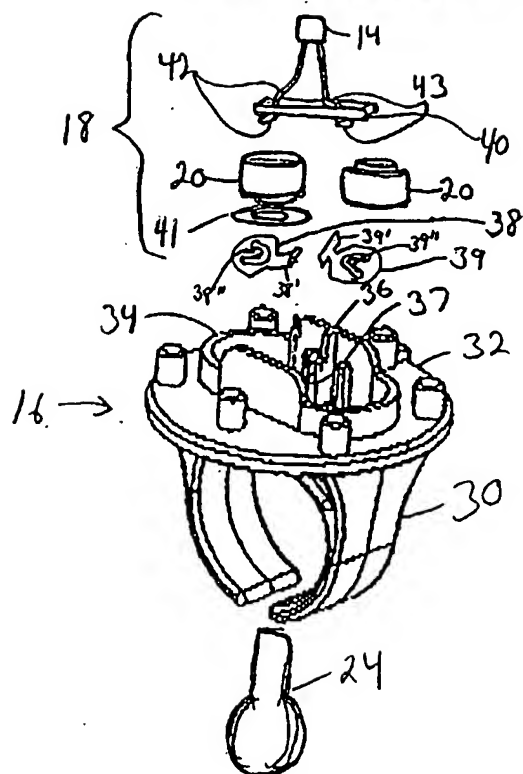
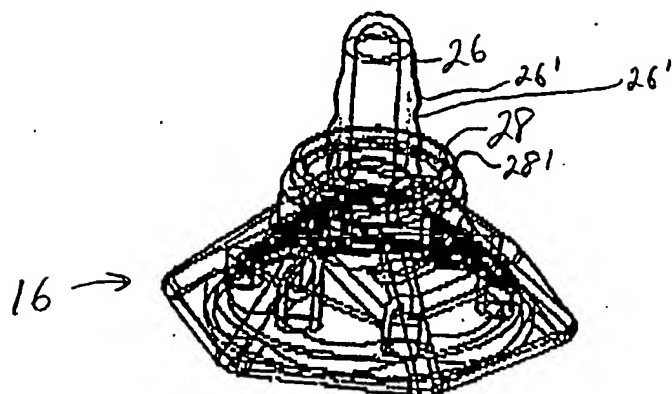


Fig. 2

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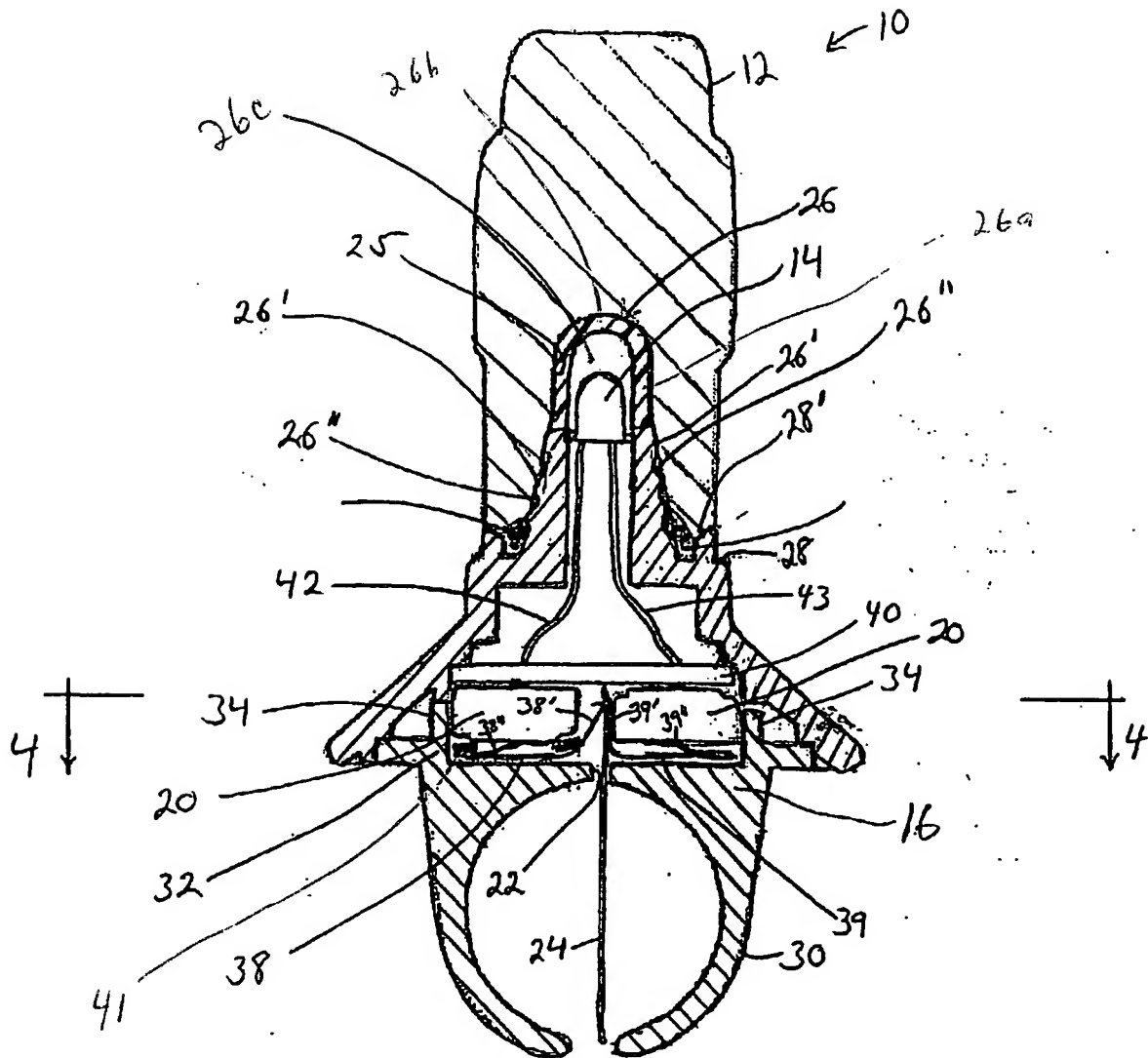


Fig. 3